

ASSEMBLY BILL

No. 909

**Introduced by Assembly Member Quirk
(Principal coauthor: Assembly Member Burke)**

February 26, 2015

An act to add Section 680.1 to the Penal Code, relating to sexual assault crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 909, as introduced, Quirk. Sexual assault crimes.

Existing law, the Sexual Assault Victims' DNA Bill of Rights, authorizes a law enforcement agency investigating certain felony sex offenses, upon the request of the victim, and subject to the commitment of sufficient resources, to inform the victim whether a DNA profile was obtained from the testing of the rape kit evidence or other crime scene evidence from the case, whether that information has been entered into the Department of Justice Data Bank of case evidence, and whether there is a match between the DNA profile developed from the rape kit evidence or other crime scene evidence and a DNA profile contained in the Department of Justice Convicted Offender DNA Data Base. Existing law also requires that the victim be given written notification by the law enforcement agency if the law enforcement agency elects not to perform DNA testing of the rape kit evidence or other crime scene evidence, or intends to destroy or dispose of the rape kit evidence or other crime scene evidence prior to the expiration of the statute of limitations. Existing law provides that the sole civil or criminal remedy available to a sexual assault victim for a law enforcement agency's failure to fulfill its responsibilities under the Sexual Assault Victims'

DNA Bill of Rights is standing to file a writ of mandamus to require compliance with these notification provisions.

This bill would require a law enforcement agency responsible for taking or processing rape kit evidence to annually report, by July 1 of each year, to the Department of Justice information pertaining to the processing of rape kits, including the number of rape kits the law enforcement agency collects, the number of those rape kits that are tested, and the number of those rape kits that are not tested. For those rape kits that are not tested, the bill would require the law enforcement agency to also report the reason the rape kit was not tested. By imposing additional duties on local law enforcement agencies, this bill would impose a state-mandated local program.

The bill would require, beginning January 1, 2017, and each January 1 after that date, the Department of Justice to submit a report to the appropriate policy committees of the Legislature summarizing the information the department receives pursuant to these provisions.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 680.1 is added to the Penal Code, to read:
- 2 680.1. (a) A law enforcement agency responsible for taking
- 3 or processing rape kit evidence shall annually report, by July 1 of
- 4 each year, all of the following information to the Department of
- 5 Justice:
- 6 (1) The number of rape kits the law enforcement agency collects.
- 7 (2) The number of rape kits the law enforcement agency collects
- 8 that are tested.
- 9 (3) (A) The number of rape kits the law enforcement agency
- 10 collects that are not tested.

1 (B) For a rape kit described in subparagraph (A), the law
2 enforcement agency shall also report to the Department of Justice
3 the reason the rape kit was not tested.

4 (b) (1) Notwithstanding Section 10231.5 of the Government
5 Code, beginning January 1, 2017, and each January 1 after that
6 date, the Department of Justice shall submit a report to the
7 appropriate policy committees of the Legislature summarizing the
8 information the department receives pursuant to subdivision (a).

9 (2) The report described in paragraph (1) shall be submitted in
10 compliance with Section 9795 of the Government Code.

11 SEC. 2. If the Commission on State Mandates determines that
12 this act contains costs mandated by the state, reimbursement to
13 local agencies and school districts for those costs shall be made
14 pursuant to Part 7 (commencing with Section 17500) of Division
15 4 of Title 2 of the Government Code.